

REMARKS

Claims 1-5, 7-12 and 14-19 are now pending in this patent application.

In this paper, claims 6 and 13 have been canceled, claims 1, 2, 4, 5, 7-12 and 14-18 have been amended, and claim 19 has been added. Aside from substantive amendments to the claims, discussed below, all instances of reference characters in parentheses, which are not needed in U.S. patent practice, have been deleted from the claims.

ALLOWABLE SUBJECT MATTER

Applicant notes with appreciation the Examiner's recognition of allowable subject matter in claims 4-6 and 11-13. For reasons presented below, Application submits that all of the claims are now in condition for allowance.

SECTION 112, 1ST PARAGRAPH, REJECTION

Claims 17 and 18 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. Applicant traverses this rejection insofar as it might be deemed applicable to claims 17 and 18 as now presented.

In claims 17 and 18, "means" has been deleted, thus obviating the specific deficiency in these claims cited by the Examiner.

In view of the amendments to claims 17 and 18 made herein, Applicant submits that claims 17 and 18 now comply fully with 35 USC § 112, first paragraph. Applicant therefore requests that this rejection be withdrawn.

SECTION 112, 2ND PARAGRAPH, REJECTION

Claims 1, 4, 8 and 11 were rejected under 35 USC § 112, second paragraph, as being indefinite. Applicant traverses this rejection insofar as it might be deemed applicable to claims 1, 4, 8 and 11 as now presented.

The Examiner specifically cited the "in particular ..." language in these claims as rendering the claims indefinite. This language has been eliminated from claims 1, 4, 8 and 11, as well as from the first paragraph of claim 10.

In view of the amendments to claims 17 and 18 made herein, Applicant submits that claims 17 and 18 now comply fully with 35 USC § 112, second paragraph. Applicant therefore requests that this rejection be withdrawn.

SECTION 101 REJECTION

Claims 17 and 18 were rejected under 35 USC § 101 as being directed to non-statutory subject matter. Applicant traverses this rejection insofar as it might be deemed applicable to claims 17 and 18 as now presented.

Claim 17 has been amended to call for "A computer program having computer-readable program code, which, when executed, carries out a method ..." Claim 18 has been amended for agreement with amended claim 17. As amended herein, claims 17 and 18 recite statutory subject matter, using accepted language for claiming a computer program in U.S. patent applications.

In view of the amendments to claims 17 and 18 made herein, Applicant submits that claims 17 and 18 now comply fully with 35 USC § 101. Applicant therefore requests that this rejection be withdrawn.

PRIOR ART REJECTION I

Claims 1-3, 9, 10 and 16-18 were rejected under 35 USC § 103(a) as being unpatentable over US 5883802 (Harris) in view of US 4213313 (Kiefer et al.). Applicant traverses this rejection insofar as it might be deemed applicable to claims 1-3, 9, 10 and 16-18 as now presented.

The Examiner acknowledges that "Harris fails to explicitly teach the maximum power level being assigned to at least one load element during a particular operating state." The Examiner cites Kiefer et al. for its teaching of "a similar dishwasher system comprising an operating state (hot water wash cycle) wherein the heating element is assigned a maximum power level (Col. 2, lines 56-63)" and its teaching that, "in a different operating state (dry cycle) the heating element being assigned a lower power level (Col. 3, lines 8-12)." The Examiner contends, "It would have been obvious to one of ordinary skill in the art at the time of the invention to have the heating element in Harris' invention to be assigned the maximum power

level during the hot water wash cycle, so that the water can get hot as quickly as possible to be able to clean the dishes more effectively."

In this paper, independent claims 1 and 10 have been amended to incorporate subject matter that had been recited in claims 6 and 13, respectively. Claim 16 has been amended to properly depend from claim 10. Claims 6 and 13 were recognized by the Examiner as reciting allowable subject matter.

The subject matter added to claim 1 does not include limitations recited in claims 4 and 5, from which claim 6 depended, and the subject matter added to claim 10 does not include limitations recited in claims 11 and 12, from which claim 13 depended. Applicant submits, however, that the limitations in claims 6 and 13, by themselves, defined patentable departures from the disclosures in Harris and Kiefer et al. and that claims 1 and 10 as amended herein are therefore allowable. For example, there is no disclosure in either Harris or Kiefer et al. of an operating step that could be reasonably equated with the step wherein "in a load regulation phase, at least one load element r , where $r \in \{1, \dots, n\}$ and which influences at least one operating state variable, which differs by more than a predetermined tolerance from a nominal value thereof, is operated at a power level which differs from its regular power level p_{reg} , until the at least one operating state variable once again assumes a value which differs by not more than the predetermined tolerance from its nominal value," as required by amended claim 1. Similarly, there is no disclosure in either Harris or Kiefer et al. of a "means for operation" that could be reasonably equated with the "means for operation of at least one load element r , where $r \in \{1, \dots, n\}$ which influences at least one operating state variable, which differs by more than a predetermined tolerance from a nominal value thereof at a power level, which differs from its regular power level p_{reg} , in the load regulation phase, until the at least one operating state variable once again assumes a value which differs from its nominal value by not more than the predetermined tolerance," as required by amended claim 10.

Without acquiescing in the Examiner's proposal to combine teachings from Harris and Kiefer et al., Applicant submits that no method or apparatus yielded by any reasonable combination of the teachings in Harris and Kiefer et al. could meet the requirements of Applicant's amended claims 1 and 10.

In view of the foregoing observations and arguments, Applicant submits that no reasonable combination of the disclosures in Harris and Kiefer et al. can properly serve as a basis for rejecting claims 1-3, 9, 10 and 16-18, as now presented, under 35 USC § 103(a). Applicant therefore requests that this rejection be withdrawn.

PRIOR ART REJECTION II

Claims 7, 8 and 14 were rejected under 35 USC § 103(a) as being unpatentable over Harris in view of Kiefer et al. and further in view of US 4695738 (Wilmot). Applicant traverses this rejection insofar as it might be deemed applicable to claims 7, 8 and 14 as now presented.

The Examiner acknowledges that Harris and Kiefer et al. "fail to explicitly teach the use of priority when determining load power levels." The Examiner cites Wilmot for its teaching of "the idea of allocating a priority to each load element in an appliance to help determine the optimum combination of power levels" and its teaching of "shedding the least necessary loads first. (Col. 1, lines 12-25)." The Examiner contends, "It would have been obvious to one of ordinary skill in the art at the time of the invention to implement Wilmot's priority idea into Harris' invention to minimize unnecessary power consumption. It also would have been obvious to have the heating elements in Harris' invention being allocated to a higher priority than other loads, since they are the most necessary when it comes to washing dishes."

Claims 7 and 8 depend from amended claim 1, and claim 14 now depends from amended claim 10. There is no disclosure in Wilmot that can remedy the deficiencies in the disclosures in Harris and Kiefer et al. vis-à-vis the requirements of amended claims 1 and 10, as pointed out above. So, even if the proposed combination of Harris and Kiefer et al. were modified in view of the disclosure in Wilmot, no method or apparatus resulting from such a combination could meet the requirements of claims 7, 8 and 14.

In view of the foregoing observations and arguments, Applicant submits that no reasonable combination of the disclosures in Harris, Kiefer et al. and Wilmot can properly serve as a basis for rejecting claims 7, 8 and 14, as now presented, under 35 USC § 103(a). Applicant therefore requests that this rejection be withdrawn.

PRIOR ART REJECTION III

Claim 15 was rejected under 35 USC § 103(a) as being unpatentable over Harris in view of Kiefer et al. and further in view of US 4689089 (Eberhardt, Jr. et al., hereafter, "Eberhardt"). Applicant traverses this rejection insofar as it might be deemed applicable to claim 15 as now presented.

The Examiner cites Eberhardt for its disclosure of a dishwasher having multiple tanks. Obviously, Eberhardt offers no disclosure that can remedy deficiencies in the combined Harris and Kiefer et al. teachings proposed by the Examiner vis-à-vis the requirements of amended claim 10, from which claim 15 now depends. So, even if the proposed combination of Harris and Kiefer et al. were modified in view of the disclosure in Eberhardt, no apparatus resulting from such a combination could meet the requirements of claim 15.

In view of the foregoing observations and arguments, Applicant submits that no reasonable combination of the disclosures in Harris, Kiefer et al. and Eberhardt can properly serve as a basis for rejecting claim 15, as now presented, under 35 USC § 103(a). Applicant therefore requests that this rejection be withdrawn.

ALLOWABILITY OF NEW CLAIMS

Claim 19 depends from claim 4 and recites a computer program stored on a computer-readable data storage medium and which, when executed, causes a computer to carry out the method recited in claim 4. Claim 4 is allowable for reasons presented above, and claim 19 is therefore allowable at least because of its dependence from an allowable parent claim.

CONCLUSION

In view of the amendments, observations and arguments presented herein, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections stated in the outstanding Office Action and recognize all of the pending claims as allowable.

If unresolved matters remain in this application, the Examiner is invited to contact Frederick R. Handren, Reg. No. 32,874, at the telephone number provided below, so that these matters can be addressed and resolved expeditiously.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

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